IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 24642 of 2003

Between:

V.V. Rama Rao, Proprietor, V.V. Rama Rao & Comany,
Saleem Nagar Colony, Malakpet, Hyderabad.

..... PETITIONER

AND

1 The Hon'ble Labour Court-1, 2nd Floor Chandra Vihar Nampally,

Hyderabad
2 V.V. Rama Rao & Company Workers and Staff Union,

Saleem Nagar Colony,
Malakpet, Hyderabad.

..... RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus directing the 1st respondent issuing the warrant of arrest is illegal and arbitrary and un-constitutional.

Counsel for the Petitioner: MR.G.MAHENDER

Counsel for the Respondent No.1: G.P. FOR LABOUR

Counsel for the Respondent No.2: Mr. M. Vijayakumar Goud

The Court made the following

ORDER:

When the matter was called on 06-06-2005, none appeared for the petitioner and hence it was directed to be posted on 07-07-2005 for orders. Today also, none appears for the petitioner and there is no representation on its behalf.

Heard the learned Government Pleader for Labour, appearing on behalf of the first respondent and also the learned counsel for the second respondent.

The writ petition is filed challenging the order of first respondent in issuing the warrant of arrest as illegal, arbitrary and un-constitutional.

The brief facts that are necessary for disposal of the writ petition are as follows:

The petitioner-V.V.Rama Rao & Company was established in the year 1970 as a small-scale unit. On account of Government policies and other factors, the petitioner-company became sick and as it was not in a position to continue the operations, the Management of the petitioner-company decided to close down the Unit. Most of the employees have settled their accounts and left their jobs from the petitioner-company and the remaining employees raised an industrial dispute before the Labour Department. As the dispute was not settled, the Labour Department was pleased to refer the matter to the Labour Court-I. The said matter was also referred to the

Lok Adalt, whereunder the petitioner-company and the second respondent-V.V.Rama Rao & Company Workers and Staff Union agreed that the petitioner-company shall pay an amount of Rs.30,00,000/- towards compensation to all the workmen who raised the dispute and the second respondent-Union and all the workmen have agreed to receive the same and with those terms and conditions the order was passed by the Lok Adalat and accordingly, the matter was referred to the first respondent-Labour Court-I. When the matter was pending before the first respondent, the petitioner has paid an amount of Rs.23,00,000/- out of Rs.30,00,000/- which was agreed before the Lok Adalat. As the petitioner could not pay the balance amount of Rs.7,00,000/-, the second respondent filed E.P.No.4 of 2001, which was posted to 10-11-2003 for payment of the balance amount and for appearance of the petitioner.

As the petitioner was absent and there was no representation on 10-11-2003, the first respondent ordered for issuance of arrest warrant and directed to post the matter on 17-11-2003. On 17-11-2003 the learned counsel for the writ petitioner filed an application before the first respondent under Section 70 (2) of Criminal Procedure

Code to recall the arrest warrant and the same was pending before the first respondent. Hence, the present writ petition.

The second respondent filed counter affidavit stating that the Management of the petitioner-company has successfully dragged on the matter for years together. The first respondent passed an award on 29-04-1998 after due enquiry directing the Management to re-instate all the workers into service with continuity of service together with back wages. Thereafter, the second respondent-Union filed E.P.No.4 of 2001 for implementation of the award. After receiving the notice in the E.P., the Management of the petitioner-company approached this Court challenging the award passed by the first respondent. The first respondent passed the orders for attaching plant and machinery of the Management. The second respondent-Union also constrained to file a petition for the arrest of Judgment Debtor/Management. Thereafter, the matter was referred to the Lok Adalat. The amounts, which were deposited in the Court by the Management, are not voluntary because the first respondent from time to time issued warrants against the Management. A cheque was given by the Management of the petitioner-comapny, which was dishonoured, and therefore, the second respondent-Union filed a fresh petition for issuance of arrest warrant. Hence, there are no grounds to allow the writ petition. Challenging the arrest warrant issued by the first respondent, the present writ petition is filed.

It is not in dispute that the second respondent-Union raised an industrial dispute before the first respondent and accordingly the first respondent passed an award dated
29-04-1998 after due enquiry, whereunder the Management of the petitioner-company was directed to reinstate all the workers into service with continuity of service together with back wages. For implementation of the award, the second respondent-Union filed E.P.No.4 of 2001. After receiving the notice in the E.P., the Management approached this Court challenging the award passed by the first respondent and any interim stay was not granted by this Court. The second respondent-Union constrained to file a petition for arrest of the Management and the first respondent ordered for issuance of arrest warrant. At that juncture, the Management came forward with settlement and the matter was referred to
Lok Adalat. In the Lok Adalat the matter was settled for payment of Rs.30,00,000/- in four installments commencing from 06-02-2002. As the amounts were not deposited as agreed in the Lok Adalat, arrest warrant was issued against the Management.

Thereafter, the Management issued a cheque and first respondent recalled the arrest warrant, but the cheque was dishonoured. Thereafter, the second respondent-Union filed a fresh petition for issuance of arrest warrant and accordingly, by an order dated 10-11-2003 the first respondent again issued the same. Hence, the present writ petition.

The award of the Lok Adalat would clearly go to show that the petitioner should deposit the agreed amount of Rs.30,00,000/- on or before 30-03-2002. However, that amount has not been deposited. When the execution petition was filed, the writ petitioner was not present and there was no representation on its behalf and therefore, the arrest warrant was issued. The order under challenge as has been issued is not contrary to any of the provisions. The petitioner-company seems to have felt to drag on the matter as long as it can do so. When the matter was settled before the Lok Adalat on
06-06-2002 the petitioner has not deposited the amounts as agreed. On the other hand, as seen from the counter affidavit, the petitioner is resorting to issue the dilatory tactics so as to avoid to pay the amount. The order under challenge does not suffer from any incurable legal infirmity so as to call for the interference of this Court. No ground has been mentioned in the affidavit as to why and how the order of arrest warrant is contrary to any of the provisions or illegal or arbitrary. In the absence of these aspects, the writ petition is devoid of merit and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

The interim direction dated 21-11-2003 granted by this Court in W.P.M.P.No.31034 of 2003 is hereby vacated.

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K.C. BHANU, J

Date: 7th June, 2005

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ASSISTANT REGISTRAR

To

1 The Hon'ble Labour Court-1, 2nd Floor Chandra Vihar Nampally,

Hyderabad
2 V.V. Rama Rao & Company Workers and Staff Union,

Saleem Nagar Colony,
Malakpet, Hyderabad.

3. Two CCs to G.P. for Labour, High Court Buildings, Hyderabad (OUT).

4. Two CD copies.